

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301  
Indianapolis, IN 46204  
(317) 233-0696  
<http://www.in.gov/legislative>

**FISCAL IMPACT STATEMENT**

**LS 6813**  
**BILL NUMBER: SB 274**

**NOTE PREPARED:** Dec 29, 2011  
**BILL AMENDED:**

**SUBJECT:** Immunity for Certain Alcohol Offenses.

**FIRST AUTHOR:** Sen. Merritt  
**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
☐ **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** This bill has the following provisions:

- A. *Certain Crimes Involving Alcoholic Beverages* – It prohibits a law enforcement officer from taking a person into custody for a crime of public intoxication or minor possession, consumption, or transportation of an alcoholic beverage if the officer, after making a reasonable determination and considering the facts and surrounding circumstances, reasonably believes that: (1) the officer has contact with the person because the person requested emergency medical assistance, or acted in concert with another person who requested emergency medical assistance, for an individual who reasonably appeared in need of medical assistance due to alcohol consumption; and (2) the person meets other requirements. The bill provides that a person meeting these conditions is immune from criminal prosecution for public intoxication or minor possession, consumption, or transportation of an alcoholic beverage.
- B. *Pretrial Diversion Program* – The bill requires a prosecuting attorney to withhold prosecution for public intoxication or minor possession, consumption, or transportation of an alcoholic beverage against a person who: (1) received medical assistance due to alcohol consumption in response to a request for medical assistance by another person; (2) agrees to a pretrial diversion program in which the person, not later than 90 days after the initial hearing, completes an alcohol education program and 20 hours of community service; and (3) has not had two prosecutions previously withheld under the pretrial diversion program. It establishes requirements concerning the pretrial diversion program.

**Effective Date:** July 1, 2012.

**Explanation of State Expenditures:**

**Explanation of State Revenues:**

**Explanation of Local Expenditures:** *Certain Crimes Involving Alcoholic Beverages* – This bill would require a prosecuting attorney to withhold prosecution of a person for committing certain misdemeanors involving alcohol or controlled substance misdemeanors that are shown in the following table.

Misdemeanor	Offense	Maximum Imprisonment	Maximum Fine
Class B	Public Intoxication	180 days in jail or probation	\$1,000
	Intoxication upon Common Carrier		
Class C	Illegal Possession by a Minor	60 Days in Jail or probation	\$500

Depending on the circumstances, this bill could reduce the number of persons who might be sentenced to either jail or to probation. However, because the number of these alcohol-related misdemeanors is not reported at the state level, the specific impact cannot be determined.

*Pretrial Diversion Program* – Each prosecuting attorney in Indiana would be required to establish a pretrial diversion program for persons who might have otherwise been sentenced for either underage drinking or public intoxication if the persons in question report to the law enforcement officer for medical assistance and cooperate with the law enforcement officer in reporting the incident.

In 2010, there were 75 counties with diversion programs for misdemeanors. The other 17 counties would be required to start programs for persons who would have otherwise been arrested and prosecuted for crimes under these circumstances.

**Explanation of Local Revenues:** The fees that may be charged in a deferred prosecution case include the following.

Fee	Cite	Fee Amount
Deferral Prosecution Fee	IC 33-37-5-17	\$120 one-time fee
Pretrial Diversion Program Fee	IC 33-37-4-1(c)	\$50 initial
Monthly User Fee	IC 33-37-4-1	\$10 monthly
Alcohol and Drug Services Fee	IC 33-37-5-8(b)	\$400 maximum
Highway Work Zone Fee	IC 33-37-5-14	\$0.50 or \$25.50
Document Storage Fee	IC 33-37-5-14	\$2
Automated Record Keeping Fee	IC 33-37-5-21	\$5
Public Defense Administration Fee	IC 33-37-5-21.2	\$3
Judicial Insurance Adjustment Fee	IC 33-37-5-25	\$1
Judicial Salaries Fee	IC 33-37-5-26	\$18
DNA Sample Processing Fee	IC 33-37-5-26.2	\$2
Court Administration Fee	IC 33-37-5-27	\$5

**State Agencies Affected:**

**Local Agencies Affected:** Prosecuting attorneys; Local law enforcement agencies.

**Information Sources:** *Indiana Judicial Report*, 2010.

**Fiscal Analyst:** Mark Goodpaster, 317-232-9852.